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| Investigation of Anomalous Bidding Behavior and Practices in Western Markets | Docket No. IN03-10-080 |
| Fact-Finding Investigation Into Possible Manipulation of Electric and Natural Gas Prices | Docket No. PA02-2-095 |
| American Electric Power Service Corporation | Docket No. EL03-137-041 |
| Enron Power Marketing, Inc. and Enron Energy Services Inc. | Docket No. EL03-180-070 |
| California Independent System Operator Corporation | Docket No. ER03-746-046 |
| Powerex Corp. | Docket Nos. EL03-166-009, EL03-199-009 |
| Powerex Corp. | Docket No. EL03-50-002 |

v.

California Power Exchange Corporation

ORDER APPROVING CONTESTED SETTLEMENT

(Issued October 4, 2013)

1. In this order, the Commission approves a contested settlement filed on August 16, 2013 between Powerex Corp. (Powerex) and the California Parties¹ (collectively, the Parties), as discussed below. The settlement resolves claims arising from events, conduct, and transactions in the Western energy markets during the period January 1, 2000 through December 31, 2001 (Settlement Period),² as they relate to

¹ The California Parties are Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, the People of the State of California *ex rel.* Kamala D. Harris, Attorney General, and the California Public Utilities Commission (CPUC). For purposes of the Settlement, the California Parties also include the California Department of Water Resources (acting solely under authority and powers created by California Assembly Bill 1 of the First Extraordinary Session of 2001-2002, codified in Sections 80000 through 80270 of the California Water Code).

² Joint Explanatory Statement at 2-3.

Powerex. The settlement consists of a “Joint Offer of Settlement and Motion for Procedural Relief for Purposes of Disposition of the Settlement” (Joint Offer of Settlement), a “Joint Explanatory Statement,” and a “Settlement and Release of Claims Agreement” (collectively, the Settlement).³

2. The Parties filed the Settlement pursuant to Rule 602 of the Commission’s Rules of Practice and Procedure.⁴ The Parties state that they have executed the Settlement and that it becomes binding on the Parties as of the execution date; however, some of the operative provisions only become effective as of, or in relation to the Settlement Effective Date and the Closing Date, as applicable.⁵ The Parties explain that the Settlement Effective Date is dependent upon the occurrence or non-occurrence of certain events (including whether the Settlement is contested, whether the Commission’s order on the Settlement imposes any material conditions to or modifications of the Settlement that adversely affects any of the Parties, and whether there is an appeal of the Commission’s final order on the Settlement).⁶

3. Additionally, the Parties explain that the Settlement will terminate on the date of a final order rejecting the Settlement in whole or material part or accepting the Settlement with material conditions or modifications deemed unacceptable to any adversely affected Party.⁷ Further, the Parties state that the Settlement may be terminated if the Commission order is appealed and any Party believes it is adversely affected by that

³ On March 11, 2011, Commissioner Cheryl A. LaFleur issued a memorandum to the file in sixty dockets, including Docket No. EL00-95-000, documenting her decision, based on a memorandum from the Office of General Counsel’s General and Administrative Law section, dated February 18, 2011, not to recuse herself from considering matters in those dockets.

⁴ 18 C.F.R. § 385.602 (2013).

⁵ Joint Explanatory Statement at 17; Settlement and Release of Claims Agreement at §§ 1.3.4, 2.1.2, 2.2.2, 2.2.3, 2.2.4.

⁶ Joint Explanatory Statement at 17; Settlement and Release of Claims Agreement at §§ 2.2.2, 2.2.3, 2.2.4. In addition, within three business days after the Settlement Effective Date, the Parties will agree on the Closing Date, which shall not be later than 10 business days after the Settlement Effective Date. The Parties will notify the Commission of the occurrence of both the Settlement Effective Date and the Closing Date. Joint Explanatory Statement at 17; Settlement and Release of Claims Agreement at §§ 2.1.4, 2.3, 4.4.1, 7.3.2.

⁷ Joint Explanatory Statement at 18; Settlement and Release of Claims Agreement at §§ 2.2.1.1, 2.2.1.2.

appeal.⁸ The Parties also state that the Settlement may terminate if the California Parties fail to receive consideration that they are due under the Settlement.⁹

4. The Parties state that the Settlement benefits market participants by resolving claims for refunds and other remedies as between Powerex on the one hand and the California Parties on the other relating to Powerex's conduct and transactions in the Western energy markets during the period January 1, 2000 through December 31, 2001.¹⁰ The Parties state that approval of the Settlement will avoid further litigation, provide monetary consideration, eliminate regulatory uncertainty, and enhance financial certainty.¹¹ Finally, the Parties note that the Commission and the United States Court of Appeals for the Ninth Circuit have encouraged settlements of claims related to conduct and transactions in the Western energy markets in the 2000 and 2001 time period.¹²

5. As discussed below, the Commission approves the Settlement.

Background and Description of the Settlement

6. In 2000, the Commission instituted formal hearing procedures under the Federal Power Act (FPA)¹³ to investigate, among other things, the justness and reasonableness of public utility sellers' rates in the California Independent System Operator Corporation (CAISO) and California Power Exchange (CalPX) markets in Docket Nos. EL00-95-000 and EL00-98-000.¹⁴ In 2002, the Commission directed its staff to commence a fact-finding investigation into the alleged manipulation of electric and natural gas prices in the West in Docket No. PA02-2-000.¹⁵ In 2003, the Commission directed its staff to

⁸ Joint Explanatory Statement at 18; Settlement and Release of Claims Agreement at § 2.2.1.4.

⁹ Joint Explanatory Statement at 18; Settlement and Release of Claims Agreement at §§ 2.2.1.3, 4.16.

¹⁰ Joint Offer of Settlement at 9.

¹¹ *Id.* at 9-10.

¹² *Id.* at 10 (citing *Pub. Utils. Comm'n of the State of Cal.*, 99 FERC ¶ 61,087, at 61,384 (2002) and *Pub. Utils. Comm'n of the state of Cal. v. FERC*, No. 01-71051, slip op. at 3 (9th Cir. Oct. 23, 2006)).

¹³ 16 U.S.C. § 791, *et seq.* (2006).

¹⁴ *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 92 FERC ¶ 61,172 (2000).

¹⁵ *Fact-Finding Investigation of Potential Manipulation of Electric and Natural*

investigate anomalous bidding behavior and practices in Western energy markets in Docket No. IN03-10-000.¹⁶ On the same day, the Commission issued two orders directing named entities to show cause why they had not participated in certain gaming practices¹⁷ or why their arrangements with other entities did not constitute gaming and/or anomalous bidding behavior.¹⁸

7. The Parties state that the Settlement resolves claims against Powerex in the above-captioned proceedings.¹⁹ Any entity that directly sold or purchased energy through CAISO and/or CalPX during the Settlement Period (Participant) may elect to be bound by the terms of the Settlement as an “Additional Settling Participant.”²⁰ To opt into the Settlement, a Participant must provide notice to the Commission, as well as serve notice to parties on the ListServes established for the Docket No. EL00-95 proceeding and in Docket No. EL03-137, *et al.*, no later than five business days of the date on which the Parties file notice of the Settlement Effective Date with the Commission.²¹ The Parties state that the rights of Participants that do not wish to opt into the Settlement will be unaffected by the Settlement, and that such Non-Settling Participants will have no right to obtain certain benefits of the Settlement, but will still be paid refunds, if any, to which they are ultimately determined to be due through continued litigation.²²

8. The Parties state that the Settlement proceeds from Powerex to the California Parties are \$750,000,000 as of the execution date of the Settlement and are comprised of the following: (1) Powerex receivables from CAISO and CalPX (net of Powerex’s interest shortfall estimate, which will be retained by CalPX) of \$474,745,416; (2) \$470,487 for Powerex opt-in rights to prior settlements between the California Parties

Gas Prices, 98 FERC ¶ 61,165 (2002).

¹⁶ *Investigation of Anomalous Bidding Behavior and Practices in the Western Markets*, 103 FERC ¶ 61,347 (2003).

¹⁷ *American Elec. Power Serv. Corp.*, 103 FERC ¶ 61,345 (2003).

¹⁸ *Enron Power Mktg., Inc.*, 103 FERC ¶ 61,346 (2003).

¹⁹ Joint Explanatory Statement at 2.

²⁰ Joint Explanatory Statement at 18; Settlement and Release of Claims Agreement at §§ 1.1, 1.60, 8.1.

²¹ Joint Explanatory Statement at 18; Settlement and Release of Claims Agreement at §§ 2.1.4, 8.1.

²² Joint Explanatory Statement at 18-19; Settlement and Release of Claims Agreement at §§ 1.42, 1.57, 3.2, 5.5, 8.1.

and other sellers, along with accrued interest through August 31, 2013; (3) \$1,366,777 for distributions from the settlement agreement between Powerex and FERC Trial Staff; and (4) a cash transfer of \$273,417,320.²³

9. The Settlement provides that certain of the California Parties will assume responsibility for, subject to specified limitations: (1) Powerex's true-ups of receivables and associated interest that have been assigned under the Settlement; (2) any Settlement Period refunds or mitigation attributable to Powerex transactions in the California markets during the Settlement Period that the Commission orders Powerex pay to Non-Settling Participants; (3) any interest shortfall amounts that the Commission allocates to Powerex; (4) any CAISO or CalPX dispute resolution charges allocated to Powerex transactions in certain circumstances; (5) any third-party refund offsets (Fuel Cost Allowance, Emissions Offset, and Cost Offset) that the Commission or a court determines that Powerex owes; and (6) any CalPX wind-up charges assessed against Powerex for all CalPX Rate Periods after Rate Period 23.²⁴

10. The Settlement includes a matrix that allocates the Settlement proceeds among Participants.²⁵ The proceeds will be distributed from a refund escrow, the costs of which will be the responsibility of the California Parties, to each of the Settling Participants and/or, in the case of amounts allocated to any Non-Settling Participants, to be transferred to the California Parties.²⁶ The Settlement provides that the obligation of the California Parties to make payments on behalf of Powerex under the terms of the Settlement shall not exceed the total amount allocated and actually paid to that California Party, as set forth in the allocation matrix and any additional amounts allocated pursuant to an allocation agreement from the amount transferred to the California litigation escrow.²⁷ The Parties explain that such limitations on the California Parties' obligations shall not create any liability for Powerex.²⁸ The Settlement also states that the

²³ Joint Offer of Settlement at 8-9; Joint Explanatory Statement at 19-20; Settlement and Release of Claims Agreement at §§ 4.1, 4.2.1, 4.2.2, 4.3.1.

²⁴ Joint Explanatory Statement at 20; Settlement and Release of Claims Agreement at §§ 3.2, 4.12, 4.2.2, 4.8, 4.9.1, 5.6, 5.7.1, 5.8.

²⁵ Joint Explanatory Statement at 21; Settlement and Release of Claims Agreement at Ex. A.

²⁶ Joint Explanatory Statement at 21; Settlement and Release of Claims Agreement at §§ 5.2, 5.5.

²⁷ Joint Explanatory Statement at 21; Settlement and Release of Claims Agreement at § 5.8.

²⁸ Joint Explanatory Statement at 21; Settlement and Release of Claims Agreement

Commission's approval of the Settlement will authorize CAISO and CalPX to conform their books and records to reflect the distributions.²⁹

11. The Parties explain that, in return for the specified consideration and subject to specified limitations, the Settlement resolves claims between the California Parties on the one hand and Powerex on the other, relating to the conduct of the Parties, or transactions between the Parties, in Western energy markets during the Settlement Period, including but not limited to claims for damages, refunds, disgorgement of profits, costs and attorneys' fees, or other remedies.³⁰

12. The Parties state that, subject to specified limitations, the Settlement provides for the California Parties and Powerex to mutually release and discharge each other as of the Closing Date from claims before the Commission or any other regulatory agency, trial or appellate court, or other tribunal, including but not limited to claims that: (1) Powerex or any California Party charged or collected unjust, unreasonable, or otherwise unlawful rates, terms, or conditions for electric capacity, energy, ancillary services, exchanges, or transmission congestion, or was unjustly enriched by the released claims; (2) Powerex or any California Party engaged in improper or illegal activities or manipulated the Western energy markets in any fashion during the Settlement Period with respect to market behavior or conduct, or with respect to bids, offers, schedules, sales, purchases, or exchanges of electric energy, capacity, and ancillary services, or otherwise violated any applicable tariff, protocol, market or organized exchange rule, regulation, law, license, authorization, regulatory rule or order, or court decision relating to the conduct of the Parties or transactions in the Western energy markets during the Settlement Period that involve sales or exchanges of electric energy, capacity, and/or ancillary services; or (3) any California Party is liable for payments to Powerex for congestion charges, transmission line losses, energy, or ancillary services in the Western energy markets during the Settlement Period.³¹ The Settlement also provides for specific releases.³² Participants that elect to participate in the Settlement as Additional Settling Participants

at § 5.8.3.

²⁹ Joint Explanatory Statement at 22; Settlement and Release of Claims Agreement at § 6.1.

³⁰ Joint Explanatory Statement at 22; Settlement and Release of Claims Agreement at §§ 1.16, 3.1, 7.1.2, 7.4.

³¹ Joint Explanatory Statement at 22-23; Settlement and Release of Claims Agreement at §§ 7.4.1, 7.6.2.

³² Joint Explanatory Statement at 23; Settlement and Release of Claims Agreement at §7.5.

are deemed to provide and receive from Powerex the releases set forth in the Settlement.³³

13. The Parties state that they would not object to the Commission assuring CAISO and CalPX that they will be held harmless for their actions to implement the Settlement.³⁴

14. Finally, the Parties request that the Commission hold in abeyance its review of the Powerex-specific findings in the Initial Decision in Docket No. EL00-95-248 that was issued by the presiding Administrative Law Judge on February 15, 2013.³⁵ The Settlement includes a provision stating that Powerex does not admit to the findings made in the Initial Decision related to its conduct, but that those findings shall not, either before or after the Closing Date, “be disturbed, withdrawn, or rejected on account of” the Settlement, and that Powerex will not “further challenge or otherwise seek to amend or vacate those findings.”³⁶ Moreover, the Settlement provides that the Initial Decision’s findings concerning Powerex’s conduct may not be used against Powerex in these and other proceedings.³⁷ The Settlement also provides that, within five business days of the Closing Date, the California Parties will provide notice to the Commission that the Closing Date has occurred and that, upon receipt of that notice, all claims for relief by the California Parties against Powerex in the *CPUC v. FERC* remand proceeding will be deemed withdrawn and all challenges by Powerex to the findings in the Initial Decision will be withdrawn.³⁸ The Settlement states that, upon the Commission’s receipt of

³³ Joint Explanatory Statement at 23; Settlement and Release of Claims Agreement at § 8.2.

³⁴ Joint Explanatory Statement at 23-24.

³⁵ Joint Offer of Settlement at 4-7 (citing *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 142 FERC ¶ 63,011 (2013) (Initial Decision)). According to the Parties, the relevant paragraphs in the Initial Decision specifically relating to Powerex are at PP 33, 34, 35, 37, 55, 63, 65, 79, 83, 93, 127, and 151. *Id.* at 6.

³⁶ Settlement and Release of Claims Agreement, § 7.2.2.1.

³⁷ Settlement and Release of Claims Agreement, § 7.2.2.3.

³⁸ Settlement and Release of Claims Agreement, § 7.3.2. The *CPUC v. FERC* remand is defined in the Settlement as “proceedings conducted by FERC, in the EL00-95 proceeding or otherwise upon remand, pursuant to the decision of the U.S. Court of Appeals for the Ninth Circuit in *Public Utilities Commission of California v. FERC*, Nos. 01-71051, *et al.*, any orders in that proceeding, any appeals and/or petitions for review of such orders, and any proceedings upon remand.” Joint Offer of Settlement at 6, n.15; Settlement and Release of Claims Agreement, § 1.20.

notice, Powerex shall be dismissed with prejudice from the *CPUC v. FERC* remand, and that no relief will be awarded by the Commission from Powerex in that proceeding.³⁹

Procedural Matters

15. As noted above, the Parties filed the Settlement pursuant to Rule 602 of the Commission's Rules of Practice and Procedure.⁴⁰ The Parties request that the Settlement be transmitted directly to the Commission for approval rather than being certified by an administrative law judge.⁴¹

16. Pursuant to Rule 602(f) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602(f) (2013) and the Notice Shortening Comment Period issued by the Commission's Office of the Secretary on August 16, 2013, initial comments on the Settlement were to be submitted no later than August 26, 2013, and reply comments were to be submitted no later than September 5, 2013. Initial comments were filed by CAISO and CalPX, either in support of or not opposing the Settlement. Initial comments in opposition to the Settlement were filed by Californians for Renewable Energy (CARE). Reply comments were filed by the Parties (Joint Reply Comments).

17. We agree with the Parties that it is appropriate for the Commission to review this Settlement without certification by an administrative law judge.

18. Finally, we grant the Parties' request that we hold in abeyance our review of the findings in the Initial Decision as they pertain to Powerex and, in particular, those portions of the Initial Decision specifically identified by the Parties until: (a) the earlier of the Closing Date or ten business days following the Settlement Effective Date; or (b) the Settlement is otherwise terminated in accordance with the termination provisions included therein. As the Settlement provides, the California Parties are obligated to inform the Commission of the Closing Date of the Settlement before claims are deemed withdrawn.

Settlement Comments

19. Both CAISO and CalPX note that the circumstances of this Settlement warrant hold harmless treatment for CAISO and CalPX because they, along with their directors, officers, employees, and consultants, will implement a number of the Settlement's

³⁹ Settlement and Release of Claims Agreement, § 7.3.2.

⁴⁰ 18 C.F.R. § 385.602 (2013).

⁴¹ Joint Offer of Settlement at 3-4 (citing *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 137 FERC ¶ 61,156, at P 15 (2011); *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 131 FERC ¶ 61,082, at P 14 (2009)).

provisions.⁴² Accordingly, CalPX requests that the following “hold harmless” language be incorporated into any Commission order approving the Settlement:

The Commission recognizes that CalPX will be required to implement this settlement by paying substantial funds from its Settlement Clearing Account at the Commission’s direction. Therefore, except to the extent caused by their own gross negligence, neither officers, directors, employees nor professionals shall be liable for implementing the settlement including but not limited to cash payouts and accounting entries on CalPX’s books, nor shall they or any of them be liable for any resulting shortfall of funds or resulting change to credit risk as a result of implementing the settlement. In the event of any subsequent order, rule or judgment by the Commission or any court of competent jurisdiction requiring any adjustment to, or repayment or reversion of, amounts paid out of the Settlement Clearing Account or credited to a participant’s account balance pursuant to the settlement, CalPX shall not be responsible for recovering or collecting such funds or amounts represented by such credits.⁴³

20. CalPX states that this is the same “hold harmless” provision that the Commission has approved in other orders approving settlements.⁴⁴ In their Joint Reply Comments, the Parties reiterate that they do not oppose incorporation of “hold harmless” language in the order approving the Settlement.⁴⁵

21. CARE filed comments in opposition to the Settlement. In its comments, CARE asserts that its members – which CARE states are “end-use ratepayers and QF customer-generators of electricity” – were not afforded an opportunity to participate in the settlement discussions “even though the rate increases imposed on them will not be heard in a public hearing process because of the proposed agreement unless CARE takes this matter to the courts instead.”⁴⁶ CARE further alleges that the Settlement “aids and abets the California Parties so as to deprive CARE of having or exercising any right under the

⁴² CAISO Comments at 4-7; CalPX Comments at 3-5.

⁴³ CalPX Comments at 5.

⁴⁴ *Id.* at 3-5.

⁴⁵ Joint Reply Comments at 4-5.

⁴⁶ CARE Comments at 2.

Constitution.”⁴⁷ CARE also claims that its president, Mr. Michael Boyd, “was/is the victim of a civil conspiracy by California Parties to violate his civil rights, all actionable under 42 U.S.C. § 1983, to redress violations of federal laws committed by California Parties....”⁴⁸

22. In their Joint Reply Comments, the Parties argue that CARE’s assertions are without merit and, as such, the Commission may approve the Settlement under the Commission’s *Trailblazer* precedent concerning contested settlements.⁴⁹ First, the Parties explain that, notwithstanding CARE’s claims of rate increases, the Settlement cannot burden retail ratepayers with additional costs. In support, the Parties point to section 5.8 of the Settlement providing an obligation of the California utilities to make payments to Non-Settling Participants on behalf of Powerex shall not exceed the total amount allocated to that California utility from the Settlement proceeds.⁵⁰ Second, the Parties disagree with CARE’s assertion that ratepayers were not represented in Settlement discussions, noting that both the CPUC and the California Attorney General are two of the California Parties. The Parties explain that the Commission had previously found that both the CPUC and the California Attorney General represented retail ratepayers.⁵¹ Third, the Parties argue that CARE’s constitutional and civil conspiracy claims are baseless.

Commission Determination

23. Under our *Trailblazer* approach for considering contested settlements, the Commission may approve a contested settlement under one or more of the following four approaches: (1) the Commission may make a decision on the merits of each contested issue; (2) the Commission may determine that the settlement provides an overall just and reasonable result; (3) the Commission may determine that the benefits of the settlement outweigh the nature of the objections, and the contesting parties’ interests are too

⁴⁷ *Id.* at 3.

⁴⁸ *Id.*

⁴⁹ *Trailblazer Pipeline Co.*, 85 FERC ¶ 61,345, at 62,342-344 (1998), *order on reh’g*, 87 FERC ¶ 61,110, *reh’g denied*, 88 FERC ¶ 61,168 (1999) (*Trailblazer*).

⁵⁰ Joint Reply Comments at 6-7 (citing Settlement and Release of Claims Agreement, § 5.8).

⁵¹ Joint Reply Comments at 7-8 (citing *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 135 FERC ¶ 61,247, at P 27 (2011); *Duke Energy Trading and Marketing LLC, et al.*, 126 FERC ¶ 61,234, at P 45 (2009); *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 129 FERC ¶ 61,258, at P 25 (2009)).

attenuated; or (4) the Commission may determine that the contesting parties can be severed.⁵² Here, we find that CARE's arguments lack merit.

24. The Commission may decide the merits of a contested settlement if there is substantial evidence in the record or if there is no genuine issue of material fact.⁵³ CARE's arguments raise no genuine issues of material fact and, in fact, CARE fails to support any of its assertions. With respect to CARE's argument that California ratepayers were not represented during settlement negotiations, we disagree. As the Parties correctly explain, the Commission has previously found that the CPUC and the California Attorney General, two of the California Parties, represent ratepayers.⁵⁴ CARE has not demonstrated that these findings were erroneous. Next, CARE provides no basis for asserted rate impacts of the Settlement. CARE does not explain how Settlement proceeds allocated to the California Parties and Additional Settling Participants results in the alleged rate impacts. Finally, CARE does not provide any support for its constitutional and civil conspiracy allegations, and fails to explain why such arguments are properly before this Commission. Accordingly, we reject CARE's arguments in their entirety as meritless and dispose of them under *Trailblazer's* first prong.

25. With respect to CalPX's and CAISO's request for "hold harmless" protection, we note that the Parties do not oppose a "hold harmless" provision that is similar to the provisions in other settlements involving the California Parties and approved by the Commission.⁵⁵ Consistent with prior orders addressing similar settlements,⁵⁶ the Commission determines that CalPX and CAISO will be held harmless for actions taken to implement this Settlement. Accordingly, this order incorporates the "hold harmless"

⁵² *Trailblazer*, 85 FERC at 62,342-44, *order on reh'g*, 87 FERC ¶ 61,110, *reh'g denied*, 88 FERC ¶ 61,168.

⁵³ See 18 C.F.R. § 385.602(h)(1)(i) (2013); *Trailblazer*, 85 FERC at 62,342.

⁵⁴ See, e.g., *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 129 FERC ¶ 61,258, at P 25 (2009).

⁵⁵ *Id.*; Joint Explanatory Statement at 23-24.

⁵⁶ See, e.g., *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 133 FERC ¶ 61,249, at P 17 (2010) (incorporating "hold harmless" language from earlier settlements); *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 128 FERC ¶ 61,242, at P 19 (2009) (same); *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 128 FERC ¶ 61,002, at P 17 (2009) (same); *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 128 FERC ¶ 61,004, at P 21 (2009) (same); *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs.*, 126 FERC ¶ 61,007, at P 38 (2009) (same).

language set out above, with one modification. Specifically, as incorporated by this order, the language shall be read to apply to both CAISO and CalPX.

26. Finally, we note that the Commission has long encouraged the settlement of disputes in general and in these proceedings in particular. We find that this Settlement will resolve long-standing disputes in the captioned proceedings as between Powerex and the California Parties during the Settlement Period. For these reasons, the Commission finds the Settlement to be just and reasonable. Therefore, we approve the Settlement.

The Commission orders:

The Settlement is hereby approved, as discussed in the body of this order.

By the Commission. Chairman Wellinghoff is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.